

AN ACT concerning local government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Elmwood Park Grade Separation Authority Act.

Section 5. Definitions. As used in this Act:

"Authority" means the Elmwood Park Grade Separation Authority.

"Person" includes an individual, partnership, firm, public or private corporation, and government or unit of government.

"Railroad" or "Railroads" means the Canadian Pacific Railway and other railroads operating or owning trackage or right-of-way within the area of the Authority.

"Village" means the Village of Elmwood Park.

Section 10. Legislative declaration. The General Assembly declares that the welfare, health, prosperity, and moral and general well being of the people of the State are, in large measure, dependent upon the sound and orderly development of municipal areas. The Village of Elmwood Park by reason of the location there of Grand Avenue and its use for vehicular travel in access to the entire west metropolitan Chicago area, including municipalities in 2 counties, as well as commercial

and industrial growth patterns and accessibility to O'Hare International Airport, manufacturing and freight related services, has become and will increasingly be the hub of transportation from all parts of the region and throughout the west metropolitan area. Motor vehicle traffic, pedestrian travel, and the safety of both motorists and pedestrians are substantially aggravated by the location of a major railroad right-of-way that divides the Village into north and south halves. The presence of the railroad right-of-way has effectively impeded the development of highway usage and rights-of-way and is detrimental to the orderly expansion of industry and commerce and to progress throughout the region. Additionally, the railroad grade crossing located on Grand Avenue within the Village of Elmwood Park has posed a significant safety hazard to the public. The Illinois Commerce Commission Collision History illustrates that there have been 8 fatalities and 29 injuries since 1956 at the railroad grade crossing located on Grand Avenue within the Village. The presence of the railroad right-of-way at grade crossing within the Village is detrimental to the safety of the public, as well as to the orderly expansion of industry and commerce and to progress of the region. To alleviate this situation, it is necessary to separate the grade crossing on Grand Avenue within the Village, to relocate the railroad tracks and right-of-way, and to acquire property for separation of the railroad or highway and to create an agency to facilitate and accomplish

that grade separation.

Section 15. Creation; duration; termination of the Authority. There is created a body politic and corporate, a unit of local government, named the Elmwood Park Grade Separation Authority that embraces that portion of Leyden Township within the Village of Elmwood Park, Cook County, Illinois. The Authority shall continue in existence until the accomplishment of its objectives or until the Authority officials resolve that it is impossible or economically unfeasible to fulfill its objectives. Objectives of the Authority include the grade separation of railroad tracks from the right-of-way of Grand Avenue in the Village of Elmwood Park, the relocation of railroad tracks and roadway to facilitate the grade separation, and other necessary, related improvements to the right-of-way and at-grade crossing closure within the Village of Elmwood Park. The Authority shall be dissolved upon its voluntary termination or 6 months after the first use of the railway on the grade separation structure by a Railroad. Upon termination or dissolution of the Authority after the construction of the grade separation project, the Department of Transportation shall own and maintain the grade separation structure and the Canadian Pacific Railway Company shall own and maintain the railway along the grade separation structure.

Section 20. Procedural capacity; seal; office. The Authority may sue and be sued in its corporate name, but execution shall not in any case issue against any property of the Authority. The Authority shall be subject to the jurisdiction of the Illinois Commerce Commission. It may adopt a common seal and change the seal at pleasure. The principal office of the Authority shall be in the Village of Elmwood Park, Illinois.

The Authority may enter into contracts for the performance of its objectives, including agreements with other State entities and departments, as well as provide for the letting of construction contracts, consultant service agreements, professional and trade services, and other agreements consistent with the purposes and objectives of the Authority established by this Act. The Authority may accept jurisdictional transfer of public right-of-way for purposes of eliminating at-grade street and railroad crossings.

Section 25. Acquisition of property. The Authority shall have the power to acquire by gift, purchase, legacy, or by the exercise of eminent domain the fee simple title to real property located within the boundaries of the Authority, including temporary and permanent easements, as well as reversionary interests in the streets, alleys, and other public places and personal property, required for its purposes, and title thereto shall be taken in the corporate name of the

Authority. Any such property that is already devoted to a public use may nevertheless be acquired, provided that no property belonging to the United States of America or the State of Illinois may be acquired without the consent of such governmental unit. No property devoted to a public use belonging to a corporation subject to the jurisdiction of the Illinois Commerce Commission may be acquired without a prior finding by the Illinois Commerce Commission that the taking would not result in the imposition of an undue burden on intrastate commerce. Eminent domain proceedings shall be conducted in all respects in the manner provided for the exercise of the right of the eminent domain under the Eminent Domain Act. No condemnation proceedings for the acquisition of new property shall be instituted without the prior concurrence of the affected Railroads in the route, width and title to be acquired thereby. Consistent with the Land Acquisition and Procedures Manual prepared by the Department of Transportation and updated through October 23, 2012, when a railroad company owns the fee title to its operating right-of-way and such property is acquired by the Authority to construct a grade separation facility, no compensation of any kind shall be made to the railroad to construct a grade separation facility where an existing highway crossing is eliminated; however, consideration shall be given if the size of the acquisition is different than the original right-of-way. All land and appurtenances thereto, acquired or owned by the Authority, are

to be deemed acquired or owned for a public use or public purpose.

Section 30. Sale or exchange of property. The Authority has the power to sell, transfer, exchange, vacate, or assign property acquired for the purposes of this Act, as it deems appropriate.

Section 35. Acceptance of grants, loans, and appropriations. The Authority has the power to apply for and accept grants, loans, advances, and appropriations from the federal government and from the State of Illinois, or any agency or instrumentality thereof, to be used for the purposes of the Authority, and to enter into any agreement in relation to such grants, loans, advances, and appropriations. The Authority may also accept from the State, or any State agency, department, or commission, any county or other political subdivision, any municipal corporation, any Railroads, school authorities, or jointly therefrom, grants of funds or services for any of the purposes of this Act. The Authority shall be treated as a rail carrier subject to the Illinois Commerce Commission's jurisdiction and eligible to receive money from the Grade Crossing Protection Fund, any fund of the State, or other source available for purposes of promoting safety and separation of at-grade railroad crossings or highway improvements.

The Illinois Commerce Commission Crossing Safety Improvement Program FY 2014-2018 Plan shall be revised to include this Authority's grade separation project as one of the bridge projects contemplated for FY 2015 through FY 2018, and funds from the Grade Crossing Protection Fund shall be allocated in the FY 2015 through FY 2018 Plan for said grade separation project. No Order of the Illinois Commerce Commission shall be effective or binding on the Authority to construct the grade separation project unless the federal government, the State of Illinois, or any agency or instrumentality thereof has granted or appropriated sufficient funds for the construction of the grade separation project and the Authority is in receipt of those funds. Notwithstanding, the Illinois Commerce Commission shall not withhold approval of the construction of the Authority's grade separation project or the issuance of any Orders that authorize the construction of the Authority's grade separation project.

Section 40. Borrowing money and issuance of bonds. The Authority may incur debt and borrow money from time to time and, in evidence thereof, may issue and sell bonds in such amount or amounts as the Authority may determine in order to provide funds for carrying out the purposes of this Act and to pay all costs and expenses incident thereto. The Authority may refund and refinance, from time to time, bonds so issued and sold, as often as may be deemed to be advantageous by the

Authority.

Section 45. Taxing powers. The Authority may not levy real property taxes for any purpose whatsoever.

Section 50. Board; composition; qualification; compensation and expenses. The Authority shall be governed by a 9-member board consisting of members appointed by the Governor with the advice and consent of the Senate. Five members shall be voting members and 4 members shall be non-voting members. The voting members shall consist of the following:

(1) two former public officials who served within the Township of Leyden or the Village of Elmwood Park and recommended to the Governor by the Village President of the Village of Elmwood Park;

(2) two prior employees of Canadian Pacific Railway with management experience; and

(3) one resident of the Township of Leyden or the Village of Elmwood Park.

The non-voting members shall consist of the following:

(1) the Village President of the Village of Elmwood Park;

(2) one current employee of Canadian Pacific Railway with management experience;

(3) one current employee of Northeast Illinois

Regional Commuter Railroad Corporation with management experience; and

(4) one current employee of the Department of Transportation with management experience.

The members of the board shall serve without compensation, but may be reimbursed for actual expenses incurred by them in the performance of their duties prescribed by the Authority. However, any member of the board who serves as secretary or treasurer may receive compensation for services as that officer.

Section 55. Removal of members. The Governor may remove from office any board member immediately in case of incompetency, neglect of duty or malfeasance of office, or otherwise upon 15 days' written notice to the other members. Absence from any 3 consecutive regular meetings of the board shall be deemed neglect of duty.

Section 60. Organization; chair and temporary secretary. As soon as possible after the effective date of this amendatory Act of the 98th General Assembly, the board shall organize for the transaction of business, select a chair from its voting members and a temporary secretary from its own number, and adopt bylaws to govern its proceedings. The initial chair and successors shall be elected by the board from time to time from among members. The Authority may act through its board members

by entering into an agreement that a member act on the Authority's behalf, in which instance the act or performance directed shall be deemed to be exclusively of, for, and by the Authority and not the individual act of the member or its represented person.

Section 65. Meetings; quorum; resolutions. Regular meetings of the board shall be held at least quarterly, the time and place of those meetings to be fixed by the board. Special meetings may be called by the chair or by a majority of the members of the board by giving notice in writing that states the time, place, and purpose of the meeting. Notice of special meetings shall be served by special delivery letter deposited in the mail at least 48 hours before the meeting. A majority of the members of the board shall constitute a quorum for the transaction of business. All action of the Authority shall be by resolution of the board and, except as otherwise provided in this Act, the affirmative vote of at least a majority shall be necessary for the adoption of any resolution. The chair shall be entitled to vote on any and all matters coming before the board.

Section 70. Secretary and treasurer; oaths; bond of treasurer. The board may appoint a secretary and a treasurer, who need not be members of the board, to hold office during the pleasure of the Authority and fix their duties and

compensation. Before entering into the duties of their respective offices, they shall take and subscribe to the constitutional oath of office, and the treasurer shall execute a bond with corporate sureties to be approved by the Authority. The bond shall be payable to the Authority in whatever penal sum may be directed by the board, conditioned upon the faithful performance of the duties of the office and the payment of all money received by the treasurer according to law and the orders of the Authority. The Authority may, at any time, require a new bond for the treasurer in such penal sum as may then be determined by the board.

Section 75. Deposit and withdrawal of funds; signatures. All funds deposited by the treasurer in any bank or savings and loan association shall be placed in the name of the Authority and shall be withdrawn or paid out only by check or draft upon the bank or savings and loan association, signed by the treasurer and countersigned by the chair of the board. Subject to prior approval of the designations by a majority of the board, the chair may designate any other member or any officer of the Authority to affix the signature of the treasurer to any Authority check or draft for payment of salaries or wages and for payment of any other obligation of not more than \$2,500.

No bank or savings and loan association shall receive public funds as permitted by this Section unless it has complied with the requirements established under Section 6 of

the Public Funds Investment Act.

Section 80. Delivery of check after executing officer ceases to hold office. If any officer whose signature appears upon any check or draft issued pursuant to this Act ceases to hold office before the delivery of the check or draft to the payee, the officer's signature nevertheless shall be valid and sufficient for all purposes with the same effect as if the officer had remained in office until delivery of the check or draft.

Section 85. Rules. The Authority may make and the board may adopt all rules and regulations proper or necessary and to carry into effect the powers granted to it. The rules and regulations shall be consistent with the guidelines, objectives, and project scope as set out by the Illinois Commerce Commission.

Section 90. Fiscal year. The Authority shall designate its fiscal year.

Section 95. Reports and financial statements. Within 60 days after the end of its fiscal year, the Authority shall cause to be prepared by a certified public accountant a complete and detailed report and financial statement of the operations and assets and liabilities as relate to the Elmwood

Park Grade Separation Authority railroad grade separation project. A reasonably sufficient number of copies of the report shall be prepared for distribution to persons interested, upon request, and a copy of the report shall be filed with the Illinois Commerce Commission and with the county clerk of Cook County.

Section 100. Construction. Nothing in this Act shall be construed to confer upon the Authority the right, power, or duty to order or enforce the abandonment of any present property of the railroads or the use in substitution therefor of any property acquired for the railroads in the absence of a contract duly executed by the railroads and the Authority setting forth the terms and conditions upon which relocation of the right-of-way and physical facilities of the railroads is to be accomplished. No such contract shall be or become enforceable until the provisions of the contract have been approved or authorized by the Illinois Commerce Commission.

Any construction improvements to signaling or any other aspect of the grade separation project dictated by the Railroad or the Northeast Illinois Regional Commuter Railroad Corporation shall be paid for respectively by the Railroad or the Northeast Illinois Regional Commuter Railroad Corporation. The Railroad or the Northeast Illinois Regional Commuter Railroad Corporation, or both, shall specifically pay any and all costs associated with any upgrades to the railway.

Section 105. Existing contracts, obligations, and liabilities. No contract, obligation, or liability whatever of the railroads to pay any money into the State treasury, nor any lien of the State upon or right to tax property of the railroads, shall be released, suspended, modified, altered, remitted, or in any manner diminished or impaired by the contract with the Authority, and any such charter provisions applicable to the property on which the railroads are now located shall be deemed in full force and effect with respect to any property on which the railroads are relocated in substitution therefor pursuant to the provisions of this Act or any such contract with the Authority pursuant thereto. Notwithstanding, upon order of the Illinois Commerce Commission, the Authority shall succeed to and assume the performance and actions of the represented persons under the terms of the order and amending orders previously entered relative to the Elmwood Park Grade Separation Authority project undertaken by the Authority and consistent with the objectives of the Authority.

Section 110. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 120. The Eminent Domain Act is amended by adding Section 15-5-47 as follows:

(735 ILCS 30/15-5-47 new)

Sec. 15-5-47. Eminent domain powers in new Acts. The following provisions of law may include express grants of the power to acquire property by condemnation or eminent domain:

The Elmwood Park Grade Separation Authority Act; Elmwood Park Grade Separation Authority; for general purposes.

Section 999. Effective date. This Act takes effect upon becoming law.